In the High Court for the States of Punjab and Haryana, at Chandigarh.

RSA No. 605 of 2007 (O&M)
Decided on February 26,2007

State of Haryana & Others --- Appellants

vs.

Smt. Urmila Devi --- Respondent.

Present: Mr.Ajay Chaudhary, D.A.G,Haryana,for the appellant

Pritam Pal,J:(Oral)

This Regular Second Appeal has been filed by the appellants/defendants (hereinafter referred to as 'the appellants) against judgments and decrees dated August 28,2006, passed by learned Addl. Civil Judge (Senior Division) and November 18,2006,passed by learned District Judge, Narnaul, whereby in a suit for damages on account of failure of operation for sterlization, a total compensation of Rs. 25,000/- was given to the respondent/plaintiff (hereinafter referred to as 'the respondent').

Both the Courts below have given concurrent findings that it was direct and sole negligence on the part of the Surgeon concerned of the appellants, due to which the respondent had to undergo painful experience of conceiving and delivering the third unwanted child. It has also further been observed by the Courts below that the Doctor having the requisite skill and competence had not exercised the

desired skill, which he possessed.

Now the only contention of learned State Counsel is that the appellants have been held jointly and severally liable to make the payment of compensation of Rs. 25,000/-. Further, the respondent had also executed a consent letter, where chances of failure of the operation to the extent of 5% had been explained to her (respondent). But it is also pertinent to mention here that neither any such letter had been produced by the appellants, nor any such document had been put to the witnesses examined by the respondent. Further, it is also admitted before the Courts below that the appellants had neither filed their pleadings/written statement nor had produced any evidence, either oral or documentary to rebut the claim of the respondent.

Faced with this situation, this Court does not find any perversity or illegality in the findings arrived at on material issues by the Courts below. Moreover, learned counsel could not make out any substantial question of law for consideration of this Court.

Hence, this appeal is hereby dismissed in *limine.*

February 26,2007 (Pritam Pal)
RR Judge